

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UPPER OHIO VALLEY LABORERS
SECURITY, FUND,

Plaintiff(s),

vs.

MMIC, INC.,

Defendant(s).

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Case Number: 1:08cv364

Chief Judge Susan J. Dlott

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Timothy S. Hogan filed on October 28, 2008 (Doc. 8), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired November 17, 2008, hereby ADOPTS said Report and Recommendation.

Accordingly, it is ORDERED that:

1. Plaintiff's motion for default judgment against defendant (Doc. 5) is **GRANTED**, except to the extent set forth in Recommendation Number 3, and that default judgment is **ENTERED** against defendant as follows:

- A. Judgment is entered against defendant and in favor of plaintiff in the amount of \$1,737.50 in delinquent fringe benefits;
- B. Defendant is ordered to comply with its obligation to make timely and full contributions to the plaintiff;
- C. Defendant is ordered to reimburse plaintiff for all amounts that plaintiff has expended to retain and/or obtain health insurance coverage, if any, for participants for the time periods which defendant has failed to timely make contributions to plaintiff and/or for those periods when participants employed

by defendant would have been eligible for coverage by plaintiff;

D. The Court **AWARDS** plaintiff interest on unpaid contributions in accordance with Recommendation Number 2; and

E. The Court **GRANTS** plaintiff an award of reasonable attorney fees and costs in accordance with Recommendation Number 2.

2. Plaintiff, within thirty (30) days of this Order adopting the Report and Recommendation, will submit to the Court proof of entitlement to interest and liquidated damages, including the relevant portions of the Trust Agreement and Plan documents, a clarification as to the amount of liquidated damages it seeks, proof of attorney fees and costs, proof of funds expended to retain and/or obtain health insurance coverage for participants for the relevant time periods, and briefing in support thereof. upon submission of this information, the Court should then determine whether to conduct a hearing before entering a judgment on the amount of interest, liquidated damages, and attorney fees and costs pursuant to Fed. R. Civ. P. 55(b))(2).

3. Plaintiff's request for interest on any additional funds used to reimburse plaintiff for health insurance coverage is **DENIED**.

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court